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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,434	07/22/2003	Frederick Allan Hall	3265-031396	6423

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EXAMINER	
SAKRAN, VICTOR N	
ART UNIT	**PAPER NUMBER**
3677	

DATE MAILED: 12/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/624,434	HALL, FREDERICK ALLAN	
	Examiner	Art Unit	
	VICTOR N SAKRAN	3677	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 October 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5,8-14 and 16-25* is/are rejected.

7)☒ Claim(s) *6,7 and 15* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-5, 8-14, 16-20, 22 and 24, are rejected under 35 U.S.C. 103(a) as being unpatentable over Gois U. S. patent No. 5,505,013 in view of Wurzer U. S. patent No. 5,463,798 (both are of record).

Gois discloses Applicant's claimed combination of a karabiner hook fastener comprising a substantially C-shaped body (Figure 9) having its free ends curved towards each other defining a gap there between, and a solid gate having a

locking means for closing said gap, said gate is adapted to open inwardly towards said body, said body including a first recess means formed at one end of said body and a second recess means formed at the second end of said body, and a roller (26) disposed at one end of said body within said first recess, and a second roller (90) disposed at the second end of said body within the second recess of said body leaving a gap between said roller (90) and the body , wherein said roller (90) defining a concave profile to provide a running groove for a rope, cable or the like, except that the reference to Gois is silent about using a strap including a groove at one face of its karabiner to provide a location for the strap and its gate does not open inwardly with the plane of its body, see Figures 8,9; column 5, lines 59-67; column 6, lines 5-17, and lines 58-63. Wurzer U. S. Patent No. 5,463,798 disclosed a karabiner comprising a main body provided with recess means, (groove) (24) for receiving a belt (strap) (25), and a gate which is adapted to open inwardly in the plane of the body of its karabiner, see Figures 9-11, and column 4, lines 44-47, and to further having the gate in Gois open inwardly with the plane of its body and further providing its body with a recess means for receiving a strap in order to secure its hook to a support structure if so desired, in the manner taught, disclosed and suggested by Wurzer, it would have been obvious to one having ordinary skill in the art at the time the invention was made, especially, since such modification involves only routine skill in the art.

As to the use of rollers formed of split components as recited in claim 17, is considered to be no more than a matter of design choice to one having ordinary

skill in the art since the use of a roller formed of split components is conventional and well known in the art, especially, when the function of the device is not changed, this is not patentable matter but the work of a machine.
Moreover, the particular location and/or the arrangement selected of an elements is considered to be no more than an obvious matter of design choice to one having ordinary skill within the art, especially, since it has been held that rearranging pa an invention is involves only routine skill in the art. See In Re Japikse, 86 USPQ 70

Claims 21 and 25, are rejected under 35 U.S.C. 103(a) as being unpatentable over the same references as applied to claims 1-5, above, and further in view of Choate U. S. Patent No. 6,161,264 who discloses a safety hook fastener comprising a spring loaded, solid gate (22), a locking element (36) and a ring formed at one end (72) of the body (14) of its hook (10) and to further modify the mounting of the gate in Gois as a spring-loaded gate, and a ring to be formed at one end of its body in order to perform the desired function for attaching its hook to a support structure in the manner taught, disclosed and suggested by Choate, it would have been obvious to one having ordinary skill in the art at the time the invention was made, especially, since such modification involves only routine skill in the art.
Furthermore, Applicant is reminded that in considering the disclosure of a reference, it is proper to take into account not only specific teaching of the

reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom; see In re Preda, 401 F2d 825, 826, 159 USPQ 342,344 (CCPA1968).

Claim 23, is rejected under 35 U.S.C. 103(a) as being unpatentable over the same reference as applied to claims 1-5, above, and further in view of Yingling U. S. Patent No. 1,849,816 who teaches the use of a wire gate (19) as a gate for a hook device assembly; see Figure 1, page 1, column 2, lines 55-59, and to form the gate in Gois, from a wire material in the manner taught, disclosed and suggested by Yingling it would have been obvious to one having ordinary skill in the art at the time the invention was made.
Furthermore, the particular type of material used to form a gate in a karabiner device assembly is considered to be no more than an obvious matter of design choice within the skill in the art, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. See In Re Leshin, 125 USPQ 416.

Claims 6, 7, and 15, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The use of a plurality of references is justified since some of the limitations to which they are applied are independent of each other; see Ex Parte Fine 1927 C. D. 84; O. G. 511.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant's attention is directed to the prior art of record, as showing structure related to Applicant's disclosed invention.

Response to Arguments

Applicant's arguments with respect to claims 1-5, 8-14, and 16-25, have been considered but are moot in view of the new ground(s) of rejection.

As to Applicant's remarks that the Gois patent cannot be used and/or combined with other prior art.

The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Furthermore, in an obviousness assessment, skill is presumed, on the part of the artisan, rather than the lack thereof. See In Re Sovish, 769 f. 2d 738, USPQ 771 (Fed. Cir. 1985).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTOR N SAKRAN whose telephone

number is 703-308-2224. The examiner can normally be reached on 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. swann can be reached on 703-308-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

December 14, 2004

VICTOR N SAKRAN
Primary Examiner
Art Unit 3677